

REMARKS

Claims 27-37, 46, 48, and 49 are pending in the above-identified patent application. Claims 1-26 and 38-45 were canceled in a previous amendment, while claims 35 and 47 are canceled herein without prejudice to their further prosecution. Claims 48 and 49 have been added. No new matter has been added. In view of the foregoing claim amendments and the following remarks, it is respectfully submitted that all pending claims are in a condition for allowance. Accordingly, reconsideration of the application and allowance thereof are respectfully requested.

Claim Rejections under 35 U.S.C. § 112

Claims 27-34, 36, 37, 46, and 47 are rejected under 35 U.S.C. § 112, second paragraph, as indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which the applicants regard as the invention. Specifically, the Examiner asserts that the recitation “continuously exerting upon the vehicle brace an upward biasing force . . .” is unclear, making the claims indefinite (see Office action of May 29, 2008, page 2, section 3). However, the applicants respectfully submit that the claims particularly point out and distinctly claim the subject matter regarded as the invention.

Independent claim 27 relates to a method of operating a vehicle brace, the method comprising, *inter alia*, continuously exerting upon the vehicle brace an upward biasing force by way of a first actuation system and selectively causing, by way of a second actuation system, the vehicle brace to apply a reactive upward force separate from the upward biasing force and adjacent a vehicle’s rear edge. The claim further specifies that

the reactive upward force minimizes downward movement of the vehicle's rear edge that would otherwise result from the applied weight of the material handling equipment.

One of ordinary skill in the art would appreciate that independent claim 27 recites two distinct forces – (1) an upward biasing force and (2) a reactive upward force. As specified in the claim, the first force, the upward biasing force, is continuously exerted upon the vehicle brace (*e.g.*, by tension spring 212), while the second force, the reactive upward force, is selectively applied to the vehicle brace to cause the vehicle brace to apply a reactive upward force adjacent the vehicle's rear edge (*e.g.*, via piston/cylinder 52). The applicants respectfully submit that one of ordinary skill in the art would appreciate that multiple forces can be applied/exerted at different times, at the same time, or, as claimed here, one force can be applied continuously and a second force can be applied selectively. Additionally, one of ordinary skill in the art would appreciate that a continuous force may have the same magnitude or may have different magnitudes whether the continuous force is applied before, during, and/or after the duration of an operation. Thus, in response to the Examiner's assertion that the applicant's invention fails to meet the limitation of the claim pertaining to continuously exerting upon the vehicle brace an upward biasing force by way of a first actuation system, the applicants respectfully submit that Figures 1-6 illustrate a method of operating a vehicle brace that includes, *inter alia*, continuously exerting upon the vehicle brace by way of a first actuation system an upward biasing force before, during, and after the duration of the loading/unloading operation. Accordingly, the applicants respectfully submit that independent claim 27 particularly points out and distinctly claims the subject matter regarded as the invention and request withdrawal of the standing § 112 rejection.

Independent claim 47 has been canceled, thereby obviating its § 112 rejection.

Claim Rejections under 35 U.S.C. § 102

Claims 27-47 stand rejected under 35 U.S.C. § 102(b) as anticipated by Hageman et al. (U.S. 4,784,567), where claim 27 is the sole independent claim.

To reiterate, claim 27 recites continuously exerting an upward biasing force on the vehicle brace to bias the vehicle brace to a raised, inoperative position. The current application describes as one example, a biasing element depicted as tension spring 212 to urge support member 202 up toward its stored [inoperative] position of FIGS. 1 and 2 (See page 8, ll. 23-25). In this example, the tension spring 212 continuously exerts an upward biasing force on the vehicle brace to bias the vehicle brace to a raised, inoperative (stored) position, regardless of whether a vehicle is positioned at the loading dock or the vehicle is positioned away from the loading dock (i.e., whether the vehicle brace is in use or not in use).

Hageman et al. do not disclose, teach, or suggest a method of operating a vehicle brace that includes continuously exerting an upward biasing force on the vehicle brace to bias the vehicle brace to a raised, inoperative position. The alleged vehicle brace of Hageman et al. is “disposed to move vertically on the guide frame between a lower inoperative position and an upper operative position where the hook is engaged with the ICC bar” (col. 1, ll. 59-62). Hageman further teaches introducing air into the lower end of a cylinder to “move the hook from the [lowered] inoperative position to the [raised] operative position where the hook will engage the ICC bar” (col. 2, ll. 2-4).

Thus, Hageman et al. clearly disclose an alleged vehicle brace that moves between a lowered, inoperative position (as in Figure 1) and a raised, operative position

(see Figure 2) via a cylinder. The alleged vehicle brace of Hageman must be moved to the lowered, inoperative position of Figure 1 to allow a vehicle's ICC bar to travel over the alleged vehicle brace as the vehicle backs up to the loading dock. If the vehicle brace of Hageman et al. was biased to a raised, inoperative position, then the vehicle brace would impede the ICC bar (and the vehicle) from moving into a position at the loading dock where the alleged vehicle brace would serve its purpose as a vehicle restraint. Furthermore, if the vehicle's ICC bar impacted the raised vehicle brace as the vehicle backs up to the loading dock, the impact may damage the vehicle brace or the ICC bar.

In contrast, applicants disclose and claim a vehicle brace biased to a raised, inoperative position. As shown in Figure 2, “[a]s vehicle 12 travels back, bar 18, or some other surface of vehicle 12, engages guide 208, which provides a wedge or cam action that pushes support member 202 down in opposition to the urging of spring 212 . . .” (pg. 8, ll. 27-29). Hageman et al. make no accommodation for biasing the vehicle brace to a raised, inoperative position. Accordingly, Hageman et al. do not disclose teach, or suggest a method of operating a vehicle brace that includes continuously exerting an upward biasing force on the vehicle brace to bias the vehicle brace to a raised, inoperative position.

Nor do Hageman et al. disclose, teach, or suggest a method that includes selectively causing, by a second actuation system, the vehicle brace to apply a reactive upward force separate from the biasing force and adjacent the vehicle's rear edge, wherein the reactive upward minimizes downward movement of the vehicle's rear edge that would otherwise result from the applied weight of the material handling equipment. As detailed in the Response filed on March 10, 2008 (pages 6-9), a primary goal of

Hageman et al. is to accommodate vertical movement of the vehicle as it is loaded or unloaded, not to minimize, or prevent, the downward movement. Specifically, Hageman et al. state that, “[d]ue to the compressible nature of the fluid within the cylinder, the hook can be moved downwardly by the ICC bar to follow downward float of the truck bed . . .” (col. 2, ll. 4-7). Thus, Hageman et al. do not disclose, teach, or suggest a method that includes selectively causing, by way of a second actuation system, the vehicle brace to apply a reactive upward force adjacent the vehicle’s rear edge, wherein the reactive upward force minimizes downward movement of the vehicle’s rear edge that would otherwise result from the applied weight of the material handling equipment.

For at least the foregoing reasons, Hageman et al. fail to disclose or suggest the recitations of claim 27. Therefore, Hageman et al. cannot anticipate or render obvious claim 27 or the claims that depend therefrom. Accordingly, amended claim 27 and all claims dependent therefrom are believed to be in condition for allowance.

The Applicant’s disclosed system and method are new, distinct, and patentable. For example, looking at Kish (US 6,488,464), Applicant’s method recited in claim 27 comprises, *inter alia*, continuously exerting an upward biasing force on the vehicle brace by way of a first actuation system to bias the vehicle brace to a raised, inoperative position, the first actuation system increasing the upward biasing force directly upon the brace in response to downward movement of the brace, and selectively causing, by way of a second actuation system, the vehicle brace to apply a reactive force separate from the upward biasing force and adjacent the vehicles rear edge. Kish fails to either disclose or suggest the Applicants’ claimed method that, *inter alia*, applies separately the upward biasing force and the reactive force to the vehicle brace.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the pending claims are in condition for allowance. If the Examiner is of the opinion that a further telephonic conference would expedite the prosecution of this application, the Examiner is urged to contact the undersigned attorney at the number below.

The Commissioner is hereby authorized to charge any deficiency in the amount enclosed or any additional fees which may be required during the pendency of this application to Deposit Account No. 50-2455.

Respectfully submitted,

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